

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RAYMOND J. RIVERA,)	
)	
Petitioner,)	
)	Civil Action No. 2:20-1070
)	
vs.)	Judge Robert J. Colville
)	
)	Magistrate Judge Patricia L. Dodge
)	
DISTRICT ATTORNEY OF)	
WESTMORELAND COUNTY, et al.,)	
)	
Respondents.)	

ORDER OF COURT

Before the Court is the May 26, 2023 Report and Recommendation (ECF No. 62) issued by the Honorable Patricia L. Dodge. Judge Dodge's Report and Recommendation recommends that the claims set forth in the Petition for a Writ of Habeas Corpus (ECF No. 13) and amendment thereto (ECF No. 25) filed by state prisoner Raymond J. Rivera ("Petitioner") under 28 U.S.C. § 2254 be denied, and that the Court further deny a certificate of appealability. Objections to Judge Dodge's Report and Recommendation were, at least initially, due by June 9, 2023. On February 12, 2024, the undersigned issued a Show Cause Order providing as follows:

Petitioner is hereby directed to show cause as to why the Report and Recommendation (ECF No. 62) filed on May 26, 2023 in this matter should not be considered and resolved in the absence of objection. Petitioner previously moved for three extensions of time to file his objections, citing his involuntary commitment and the lack of access to a law library. The most recent extension provided a deadline of December 18, 2023 for Petitioner to file objections to the Report and Recommendation, and Petitioner has not filed objections or another extension motion. Accordingly, Petitioner is hereby directed to show cause by no later than

March 4, 2024 as to why the Court should not consider and resolve the pending Report and Recommendation in the absence of objection.

ECF No. 70. To date, Petitioner has not responded to the Court's Show Cause Order and has not filed objections. Given that the deadline for objections to the Report and Recommendation expired more than three months ago, and given that the deadline for responding the Court's Show Cause Order expired more than three weeks ago, the Court considers this matter to be ripe for disposition.

Objections to a magistrate judge's disposition of a dispositive matter are subject to de novo review before the district judge. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). The reviewing district court must make a de novo determination of those portions of the magistrate judge's report and recommendation to which objections are made. *Id.* Following de novo review, "[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The United States Court of Appeals for the Third Circuit has explained that, "even absent objections to the report and recommendation, a district court should 'afford some level of review to dispositive legal issues raised by the report,'" and has "described this level of review as 'reasoned consideration.'" *Equal Employment Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)).

Upon reasoned consideration of Judge Dodge's May 26, 2023 Report and Recommendation, and following review of the relevant docket entries and the entire record in this matter, it is hereby ORDERED as follows:

The claims set forth in the Petition for a Writ of Habeas Corpus (ECF No. 13) and amendment thereto (ECF No. 25) filed by Raymond J. Rivera under 28 U.S.C. § 2254 are denied. Because jurists of reason would not find it debatable whether each of Petitioner's claims should be denied for the reasons set forth in Judge Dodge's Report and Recommendation, a certificate of appealability is denied as to any of Petitioner's grounds for relief. The Clerk of Court shall mark this case as closed.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

Dated: March 28, 2024

cc: Honorable Patricia L. Dodge

Counsel of Record

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